

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.08.2006

Coram:

The Honourable Mr.Justice P.JYOTHIMANI

Writ Petition No.25275 of 2006

M/s.Sakthi Chemical Industries,
rep. by its Proprietrix,
Mrs.J.Sasirakha,
8/9, Gopalakrishna Road,
T.Nagar,
Chennai-600 017. ... Petitioner

Vs.

1. The Deputy Director,
ESI Corporation,
143, Sterling Road,
Chennai-600 034.
2. The Recovery Officer,
ESI Corporation,
143, Sterling Road,
Chennai-600 034. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned proceedings NO.TN/INSV/51-54931/1105/8/02 relating to the period 1/2001 to 9/2001 dated 23.5.2003 and the proceedings of TN/RECY/ ESI-CP16/51-54931-34 dated 18.7.2006 on the file to the second respondent, quash the same and consequently direct the respondents to provide an opportunity to the petitioner and hear the case on merits and pass appropriate orders under Section 45-A of the Act.

For Petitioner : Mr.K.Nagarajan

For Respondents: Mr.A.Paramasivam

O R D E R

The prayer in the writ petition is for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned proceedings NO.TN/INSV/51-54931/1105/8/02 relating to the period 1/2001 to 9/2001 dated 23.5.2003 and the proceedings of TN/RECY/ ESI-CP16/51-54931-34 dated 18.7.2006 on the file of the second respondent, quash the same and consequently direct the respondents to provide an opportunity to the petitioner and hear the case on merits and pass appropriate orders under Section 45-A of the Act.

2. Mr.A.Paramasivam takes notice on behalf of both the respondents. The impugned order passed by the second respondent is one of the attachment of the immovable property belonging to the petitioner in respect of arrears of Employee State Insurance Corporation's claim to the extent of Rs.1,55,232/-. The impugned order has been passed by the second respondent as Recovery Officer subsequent to the exparte decision arrived at by the first respondent, without giving opportunity in respect of various periods of contribution. Further, the case of the petitioner is that the petitioner is not liable for the contribution and the concern itself has been closed long back. Without giving opportunity to explain these reasons, exparte orders have been passed by the second respondent as stated supra.

3. Heard learned counsel for the petitioner as well as learned counsel for the respondents. Considering the circumstances of the case that the exparte order has been passed in respect of the liability under the ESI Act, based on which the present impugned order of attachment has been issued by the second respondent and on carefully considering the entire facts and circumstances of the case, I am of the view that the petitioner should be permitted to explain his reason to the first respondent in respect of the liability on certain conditions. In view of the same, the petitioner is directed to deposit 50% of the amount claimed by the second respondent by his impugned order dated 18.7.2006, within a period of four weeks from the date of receipt of a copy of this order. On compliance of the said condition, the first respondent shall give opportunity to the petitioner to produce the documents disputing the claim of the respondents and also to prove that he is not liable to pay any amount and thereafter pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

4. With the above direction the impugned order is quashed and the writ petition is disposed of accordingly. Consequently, M.P.Nos.1 and 2 of 2006 are closed. No costs.

Km

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Deputy Director,
ESI Corporation,
143, Sterling Road,
Chennai-600 034.
2. The Recovery Officer,
ESI Corporation,
143, Sterling Road,
Chennai-600 034.

1 cc to Mr.A.Paramasivam, Advocate, SR.35989

na (co)

dv/18.8.06

W.P.No.25275 of 2006

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